

Nuclear Regulatory Commission

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such alleged violation exists or has occurred. Inspections pursuant to this section need not be limited to matters referred to in the complaint.

[38 FR 22217, Aug. 17, 1973, as amended at 40 FR 8783, Mar. 3, 1975; 47 FR 30454, July 14, 1982; 52 FR 31610, Aug. 21, 1987]

§ 19.17 Inspections not warranted; informal review.

(a) If the Administrator of the appropriate Regional Office determines, with respect to a complaint under § 19.16, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, he shall notify the complainant in writing of such determination. The complainant may obtain review of this determination by submitting a written statement of position to the Executive Director for Operations, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>; by e-mail to MSHD.Resource@nrc.gov; or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. The Executive Director for Operations will provide the licensee with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee may submit an opposing written statement of position with the Executive Director for Operations who will provide the complainant with a copy of such statement by certified mail. Upon the request of the complainant, the Executive Director

for Operations or his designee may hold an informal conference in which the complainant and the licensee may orally present their views. An informal conference may also be held at the request of the licensee, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written and oral views presented, the Executive Director for Operations shall affirm, modify, or reverse the determination of the Administrator of the appropriate Regional Office and furnish the complainant and the licensee a written notification of his decision and the reason therefor.

(b) If the Administrator of the appropriate Regional Office determines that an inspection is not warranted because the requirements of § 19.16(a) have not been met, he shall notify the complainant in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of § 19.16(a).

[38 FR 22217, Aug. 17, 1973, as amended at 40 FR 8783, Mar. 3, 1975; 52 FR 31610, Aug. 21, 1987; 67 FR 77652, Dec. 19, 2002; 68 FR 58801, Oct. 10, 2003; 74 FR 62680, Dec. 1, 2009]

§ 19.18 Sequestration of witnesses and exclusion of counsel in interviews conducted under subpoena.

(a) All witnesses compelled by subpoena to submit to agency interviews shall be sequestered unless the official conducting the interviews permits otherwise.

(b) Any witness compelled by subpoena to appear at an interview during an agency inquiry may be accompanied, represented, and advised by counsel of his or her choice. However, when the agency official conducting the inquiry determines, after consultation with the Office of the General Counsel, that the agency has concrete evidence that the presence of an attorney representing multiple interests would obstruct and impede the investigation or inspection, the agency official may prohibit that counsel from being present during the interview.

(c) The interviewing official is to provide a witness whose counsel has been excluded under paragraph (b) of this

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section and the witness's counsel a written statement of the reasons supporting the decision to exclude. This statement, which must be provided no later than five working days after exclusion, must explain the basis for the counsel's exclusion. This statement must also advise the witness of the witness' right to appeal the exclusion decision and obtain an automatic stay of the effectiveness of the subpoena by filing a motion to quash the subpoena with the Commission within five days of receipt of this written statement.

(d) Within five days after receipt of the written notification required in paragraph (c) of this section, a witness whose counsel has been excluded may appeal the exclusion decision by filing a motion to quash the subpoena with the Commission. The filing of the motion to quash will stay the effectiveness of the subpoena pending the Commission's decision on the motion.

(e) If a witness' counsel is excluded under paragraph (b) of this section, the interview may, at the witness' request, either proceed without counsel or be delayed for a reasonable period of time to permit the retention of new counsel. The interview may also be rescheduled to a subsequent date established by the NRC, although the interview shall not be rescheduled by the NRC to a date that precedes the expiration of the time provided under § 19.18(d) for appeal of the exclusion of counsel, unless the witness consents to an earlier date.

[55 FR 247, Jan. 4, 1990, as amended at 56 FR 65948, Dec. 19, 1991; 57 FR 61785, Dec. 29, 1992]

§ 19.20 Employee protection.

Employment discrimination by a licensee, a holder of a certificate of compliance issued under part 76 of this chapter or regulated entity subject to the requirements in this part as delineated in § 19.2(a), or a contractor or subcontractor of a licensee, a holder of a certificate of compliance issued under part 76 of this chapter, or regulated entity subject to the requirements in this part as delineated in § 19.2(a), against an employee for engaging in protected activities under this part or parts 30, 40, 50, 52, 54, 60, 61, 63,

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70, 72, 76, or 150 of this chapter is prohibited.

[72 FR 49485, Aug. 28, 2007]

§ 19.30 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

[57 FR 55071, Nov. 24, 1992]

§ 19.31 Application for exemptions.

The Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law, will not result in undue hazard to life and property.

[72 FR 49485, Aug. 28, 2007]

§ 19.32 Discrimination prohibited.

No person shall on the grounds of sex be excluded from participation in, be denied a license, be denied the benefit of, or be subjected to discrimination under any program or activity carried on which is under the jurisdiction of the NRC under the Atomic Energy Act of 1954, as amended, or under any title of the Energy Reorganization Act of